

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

**Case No. A-6085**

**PETITION OF THOMAS E. GILES**  
(Hearing held July 20, 2005)

**OPINION OF THE BOARD**  
(Effective date of Opinion, September 9, 2005)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioner proposes the construction of a bay window that requires a two (2) foot variance as it is within five (5) feet of the side lot line. The required setback is seven (7) feet.

Mark Neudorfer and Michael Meszaros, of Zaras & Neudorfer Architects, appeared with Allison Giles, property owner, at the public hearing.

The subject property is Lot 21, Block 1, Chevy Chase Subdivision, located at 3908 Oliver Street, Chevy Chase, Maryland, 20815, in the R-60 Zone (Tax Account No. 03482942).

Decision of the Board: Requested variance **granted**.

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioner proposes the construction of a 2.4 x 10.2 foot bay window.
2. Mr. Meszaros testified that the subject property was resubdivided on February 2005, resulting in an irregularly-shaped lot. Mr. Meszaros testified that the prior lot was substantially larger, with the house sited in the center of the lot. Mr. Meszaros testified that as a result on the subdivision, the western boundary lines angles inward. See, Exhibit Nos. 4(a) [site plan] and 4(b) [subdivision record plat].
3. Mr. Meszaros testified that the property has an existing bay window located at the northwest corner of the house that is currently located in

the setback and that the proposed bay window would be located the same distance from the western side yard boundary.

4. The petitioner testified that the property had a prior subdivision that she believes occurred in the 1980s. The petitioner testified that they have owned the house for three years and that the proposed construction has received the approval from Chevy Chase Village.

### **FINDINGS OF THE BOARD**

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

- (a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The petitioner's property is an irregular, pie-shaped lot, with an angled western boundary line that narrows from front to rear. The Board finds that this is an exceptional condition peculiar to the subject property and that the strict application of the zoning regulations would result in practical difficulties to and an undue hardship upon the property owners.

- (b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the variance requested for the construction of a bay window is the minimum reasonably necessary.

- (c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The Board finds that the variance for the proposed construction will continue the residential use of the property and that the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

- (d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The Board finds that variance will not substantially change the view from the surrounding homes and that it will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variance of two (2) feet from the required seven (7) foot side lot line setback is granted subject to the following conditions:

1. The petitioner shall be bound by all of her testimony and exhibits of record, and the testimony of her witnesses, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4(a) and 4(b) and 5.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Angelo M. Caputo and Wendell M. Holloway, in agreement, and with Allison Ishihara Fultz, Chair, in opposition, the Board adopted the foregoing Resolution.

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Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

I do hereby certify that the foregoing  
Opinion was officially entered in the  
Opinion Book of the County Board of  
Appeals this 9th day of September, 2005.

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Katherine Freeman  
Executive Secretary to the Board

**NOTE:**

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.